

REMARKS

Applicant respectfully requests reconsideration of this application as amended.

As a preliminary matter, in the Office Action mailed November 19, 2003, the Examiner did not attach an initialed copy of the PTO-1449 form references that were mailed to the PTO on August 28, 2003. As such, applicant respectfully requests that the Examiner indicate that these references have been considered and made of record.

Office Action Rejections Summary

Claims 1-6, 8-10, 12-16, 18 and 21-25 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,069,872 of Bonomi et al. ("Bonomi") in view of U.S. Patent No. 5,546,395 of Sharma et al. ("Sharma").

Status of Claims

Claims 1-6, 8-10, 12, 14-16, 18 and 20-25 remain pending in the application. Claim 8 has been amended. No new matter has been added. No claims have been added. No new matter has been added. Claim 13 has been canceled.

Claim Rejections

Claims 1-6, 8-10, 12, 14-16, 18 and 21-25 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Bonomi in view of Sharma. It is submitted that claim 1 is patentable over the cited references.

The Office Action states:

Regarding claim 1, Bonomi discloses a system and method for controlling congestion in a packet switched communications system and in particular to an explicit rate congestion control system and method for an asynchronous transfer mode (ATM) communications network. The network comprising:

a number of nodes connected through one or more communication links (**Fig 1**); and

a resource manager configured to allocate bandwidth over the communication links to **high priority** calls (**Figs 2, 3; col 2 L7-col 3 L60**) received at one or more of the nodes without dropping existing calls within the network (**Fig 3, col 5 L60-col 6 L35, col 8 L50-60**).

Bonomi does not disclose the use of **negotiation** using selected compression schemes for existing calls transported on an outbound communications link.

Sharma (**col 1 L7, which also incorporates Li et al US Pat. 5,617,423**) discloses use of negotiation (**abstract**) selected compression schemes for existing calls transported on an outbound communications link, (**abstract; Fig 3; col 1 L40-56; claim 4 also see Li abstract and claim 1**).

The use of negotiated compression algorithm for voice traffic reduces the overall bandwidth required per call which in turn increases the total number of calls that may be completed within a same amount of bandwidth allocated.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bonomi's rate control system to include the compression schemes as taught by Sharma so as to utilize less overall bandwidth per call yet increase the total number of calls that can be completed within the same amount of the total allocated bandwidth. (bolding emphasis in the original)

(Office Action, 11/19/03, pp. 2-3)(underlining emphasis added).

It appears that the Office Action is, again, paraphrasing the language of the claims rather than analyzing each limitation of each of claims 1, 8 and 16. Moreover, such paraphrasing leaves out particular claim limitations explicitly recited within the claims, and improperly adds limitations that do not appear within the claims. **For example, the Office Action analysis with respect to claim 1, purports that claim 1 includes the language of a "resource manager."** It is respectfully submit that such language does not appear anywhere in claim 1.

Claims 1, 8 and 16 are each independent claims each having their own claim limitations. As such, the paraphrasing analysis provided by the Office Action referring to claims 1, 8, and 16 is inapposite. Applicants respectfully submit that the analysis provided in the Office Action does not read the references onto each of the independent

claim limitations and, therefore, has not established that all the limitations of the applicant's claims are taught or suggested by the prior art references.

Applicant respectfully requests that the Examiner provide an independent analysis with respect to each of claims 1, 8 and 16 and the cited references by identifying, next to each claim's limitations, the column and line numbers from the cited references where the Examiner believes the claim language reads on the cited references. Although applicant believes the burden has not been met in this matter, applicant is herewith making a response as best as possible in an attempt to advance prosecution of this case.

Applicant submits that claim 1 is patentable over the cited references.

Claim 1 recites:

A system, comprising a network node configured to negotiate for connections for high priority calls received at the node in the face of otherwise congested outbound communication links, wherein the node is configured to **negotiate** for one or more voice channels to accommodate the high priority calls **depending upon selected compression schemes** for existing calls transported on the outbound communication links

(emphasis added)

Bonomi does not disclose a node configured to negotiate for one or more voice channels to accommodate the high priority calls depending upon selected compression schemes for existing calls. Applicant believes the Examiner to be in agreement on this point.

Applicant submits that Sharma fails to cure this deficiency. Sharma teaches a negotiation handshake protocol which enables two sites to negotiate **a compression rate** for communication between the two sites over **a single communications link (channel 1111)** as illustrated in Figure 3 of Sharma. (Sharma, Abstract, col. 1 lines 40-57). As such, no channel negotiation is being performed in Sharma. Rather, Sharma is merely negotiating a compression rate to be used for channel 1111.

In contrast, claim 1 includes the limitation of “to negotiate *for one or more voice channels* to accommodate the high priority calls **depending upon selected compression schemes.**” Nothing in Sharma teaches or suggests the negotiation for one or more voice channels to accommodate high priority calls by a node depending upon selected compression schemes. As such, a combination of the Sharma with Bonomi fails to teach or suggest the above noted claim 1 limitation. Therefore, applicant submits that claim 1 is patentable over a combination of the cited references.

Given that claims 2-6 depend from claim 1, applicant submits that claims 2-6 are also patentable over the cited references.

It is submitted that claim 8 is patentable over the cited references. Applicant has amended claim 8 to include the limitation of dependent claim 13. Therefore, as amended claim 8 includes all of the limitations of claim 13.

As amended claim 8 recites:

A method comprising managing a communication link between nodes of a communication network so as to ensure connection availability for one or more high priority calls over the communication link through dynamic renegotiations of call parameters for existing calls transported over the communication link, wherein the dynamic renegotiations comprise negotiations of compression schemes for the calls, **wherein the dynamic renegotiations are accomplished through the exchange of OAM cells between the nodes.**

(emphasis added)

Although the format and use of OAM cells is well known in the art as noted by the Office Action, it is submitted that claim 8 is not merely claiming an OAM cell. Rather, claim 8 includes the limitation of dynamic renegotiations of call parameters for existing calls transported over the communication link wherein the **dynamic renegotiations** are accomplished through the **exchange of OAM cells between the nodes.** Nothing in either of the cited references either alone or in combination teaches or suggests the above noted claim 8 limitations. While a claimed invention may be a

“technologically simple concept,” it is not obvious without a finding as to the specific understanding or principle within the knowledge of the skilled artisan that would have provided the motivation to modify the reference the manner purported by the Examiner. In re Kotzab, 217 F.3d 1365, 1371 (Fed. Cir. 2000); MPEP 2143.01.

The Office Action states:

Cell loss is an important quality parameter in ATM, at least for CBR, VBR and ABR services, OAM cells are also used for fault management, performance management and at times some of these cells are sent periodically in order to detect possible failures within the network. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bonomi’s rate control system to include OAM cells to transmit desired information from one node to the next to possibly to detect and control congestion problems as needed.

(Office Action, page 4)

First, it is respectfully submitted that the Examiner is relying on facts which are not of record as common knowledge to arrive at applicants’ claim limitation noted above. **The Examiner is respectfully requested to provide evidentiary support of such.** The Examiner’s attention is directed to MPEP 2144.03(C).

Further, it is not understood how the Examiner purports that the use of OAM cells for fault or performance management would provide a motivation to modify Bonomi to arrive at applicant’s claim limitations. An existing use of OAM cells would not a priori provide a motivation to modify Bonomi to arrive at applicant’s claim 8 limitations. There is no motivation provided, beyond the applicant’s own application disclosure, to modify Bonomi in the purported manner.

In addition, it is submitted that the proposed modification of Bonomi to use OAM cells in its rate congestion control system would require a substantial reconstruction and redesign of the elements shown in either Bonomi or Sharma and, therefore, cannot render claim 8 obvious. See In re Rattie, 270 F.2d 810 (CCPA 1959); MPEP 2143.01.

Therefore, applicant submits that claim 8 is patentable over the combination of the cited references.

Given that claims 9-10, 12 and 14 -15 depend from claim 8, applicant submits that claims 9-10, 12 and 14 -15 are also patentable over the cited references.

Applicant submits that claim 16 is patentable over the cited references.

Claim 16 recites:

A network comprising:

a number of nodes connected through one or more communication links;
and

a resource manager configured to allocate bandwidth over the communication links to high priority calls received at one or more of the nodes without dropping existing calls within the network through dynamic renegotiations of existing bandwidth utilization within the network, wherein the nodes each support multiple codec resources to compress voice information transmitted over the communication links, wherein the dynamic renegotiations comprise **negotiations of compression schemes supported by the multiple codec resources** for the calls.

(emphasis added)

It is respectfully that it would be impermissible hindsight, based on applicants' own disclosure, to combine Bonomi with Sharma to arrive at applicants' claim 16 limitations. Moreover, the proposed modification of the ATM network of Bonomi to use the telephone system of Sharma would require a substantial reconstruction and redesign of the system shown in Bonomi and, therefore, cannot render the claim 8 obvious. See In re Rattie, 270 F.2d 810 (CCPA 1959); MPEP 2143.01. Therefore, claim 16 is patentable over the cited references.

For reasons similar to those given above with respect to claim 16, applicant submits that claims 21-25 are also patentable over the cited references.

In conclusion, applicant respectfully submits that in view of the arguments set forth herein, the applicable rejections have been overcome.


If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 3/19, 2004

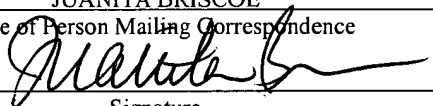

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